
HOUSE BILL 1696

State of Washington

66th Legislature

2019 Regular Session

By Representatives Dolan, Senn, Davis, Macri, Robinson, Jinkins, Kilduff, Wylie, Frame, Appleton, Ortiz-Self, Stanford, Goodman, Chapman, Peterson, Doglio, Pollet, Leavitt, Valdez, and Gregerson

Read first time 01/28/19. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to wage and salary information; adding new
2 sections to chapter 49.12 RCW; creating a new section; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Women in this state have experienced pay discrimination based
7 on salary history for decades;

8 (b) Women are regularly offered lower initial pay than men for
9 the same jobs even where their levels of education and experience are
10 the same or comparable;

11 (c) Such persistent earnings inequality for working women
12 translates into lower pay, less family income, and more children and
13 families in poverty; and

14 (d) As an important step towards gender and economic equality,
15 the legislature has recently made explicit that using prior salary
16 history to justify a wage differential between similarly employed
17 workers of different genders is unlawful discrimination under the
18 state equal pay act, and this practice is also unlawful under the
19 federal equal pay act.

20 (2) The legislature therefore intends to follow multiple other
21 states and take the additional step towards gender equality of

1 prohibiting an employer from seeking the wage or salary history of an
2 applicant for employment. Further, the legislature intends to require
3 an employer to provide information about wage scales and salaries to
4 employees.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12
6 RCW to read as follows:

7 The definitions in this section apply throughout this section and
8 sections 3 through 5 of this act unless the context clearly requires
9 otherwise.

10 (1) "Employee" means a worker who is employed in the business of
11 an employer. "Employee" includes workers performing in an executive,
12 administrative, professional, or outside sales capacity.

13 (2) "Employer" means any person, firm, corporation, partnership,
14 business trust, legal representative, or other business entity that
15 engages in any business, industry, profession, or activity in this
16 state and employs one or more employees. "Employer" includes the
17 state, any state institution, any state agency, political
18 subdivisions of the state, and any municipal corporation or quasi-
19 municipal corporation.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.12
21 RCW to read as follows:

22 (1) An employer may not:

23 (a) Seek the wage or salary history of an applicant for
24 employment from the applicant or a current or former employer; or

25 (b) Require that an applicant's prior wage or salary history meet
26 certain criteria, except as provided in subsection (2) of this
27 section.

28 (2) An employer may confirm an applicant's wage or salary
29 history:

30 (a) If the applicant has voluntarily disclosed the applicant's
31 wage or salary history; or

32 (b) After the employer has negotiated and made an offer of
33 employment with compensation to the applicant.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.12
35 RCW to read as follows:

1 (1) Upon the request of an applicant for employment, an employer
2 must provide the wage scale or salary range for the job title for the
3 position for which the applicant is applying.

4 (2) An employer must provide to each employee the wage scale or
5 salary range for the employee's job title upon hire, and annually and
6 upon request after hire.

7 (3) An employer satisfies the requirements of this section if the
8 wage scale or salary range for a position is available on the
9 employer's web site.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.12
11 RCW to read as follows:

12 (1)(a) Upon complaint by an employee, the director must
13 investigate to determine whether an employer has violated sections 3
14 or 4 of this act or the rules adopted under those sections. The
15 director may also initiate an investigation on behalf of one or more
16 employees for a violation of section 3 or 4 of this act or the rules
17 adopted under those sections. The director may require the testimony
18 of witnesses and production of documents as part of the director's
19 investigation.

20 (b) If the director determines that an employer has violated this
21 section or section 3 or 4 of this act, the director may order the
22 employer to pay to the complainant: Actual damages; statutory damages
23 equal to the actual damages or five thousand dollars, whichever is
24 greater; and interest of one percent per month on all compensation
25 owed. The director may also order: Payment to the department of a
26 civil penalty of not more than two hundred dollars for an employer's
27 first violation and not more than one thousand dollars for any
28 subsequent violation; payment to the department for investigation and
29 enforcement costs; and any other appropriate relief. For the purposes
30 of a civil penalty under this section, a violation as to each
31 affected employee constitutes a separate violation.

32 (c) An appeal from the director's determination may be taken in
33 accordance with chapter 34.05 RCW. An employee who prevails in an
34 appeal is entitled to costs and reasonable attorneys' fees.

35 (d) The department must deposit civil penalties paid under this
36 subsection in the supplemental pension fund under RCW 51.44.033.

37 (e) Any wages and interest owed must be calculated from the first
38 date wages were owed to the employee.

1 (2) An employee may bring a civil action against an employer for
2 violation of section 3 or 4 of this act for: Actual damages;
3 statutory damages equal to the actual damages or five thousand
4 dollars, whichever is greater; interest of one percent per month on
5 all compensation owed; and costs and reasonable attorneys' fees. The
6 court may also order reinstatement and injunctive relief. Any wages
7 and interest owed must be calculated from the first date wages were
8 owed to the employee.

9 (3) The department may adopt rules to implement this section.

10 (4) The department may collect amounts ordered by the director
11 under this section under the procedures under RCW 49.48.086.

12 NEW SECTION. **Sec. 6.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

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